

AMENDED IN SENATE JUNE 7, 2011

AMENDED IN SENATE JUNE 2, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY APRIL 13, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 619

Introduced by Assembly Member Halderman

February 16, 2011

An act to amend Sections 4600, 4600.5, 4601, ~~4601.2~~, 4601.3, 4601.4, 4602, 4602.5, 4603, 4603.1, 4603.5, 4604, 4612, and 4615 of, and to add Sections 4603.7 and 4616 to, the Business and Professions Code, relating to massage therapy.

LEGISLATIVE COUNSEL'S DIGEST

AB 619, as amended, Halderman. Massage therapy.

Existing

(1) *Existing* law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by a nonprofit Massage Therapy Organization, as ~~defined~~.

~~(1) Existing defined.~~ *Existing* law requires the initial board of directors to, among other things, establish the organization.

This bill would specify that the Massage Therapy Organization is to be known as the California Massage Therapy Council, as defined.

(2) Existing law requires applicants for initial certification as massage practitioners and massage therapists to pay a specified fee and meet

certain educational requirements, ~~including the completion of a certain number of hours from an approved school or pass a specified examination.~~

This bill would require ~~those hours to be completed from a recognized school, as defined. The bill would require~~ a certificate holders *holder* to include certain identifying information in ~~advertisements any advertising, and to display his or her certificate at his or her place of business.~~

(3) Existing law prohibits the holder of a certificate or a certificate applicant from being disciplined or denied a certificate unless certain procedural requirements are met. Existing law requires actions challenging a denial or discipline to be commenced within a year after the date of the denial or discipline. Under existing law, applicants and certificate holders are liable for charges incurred before the certificate denial or certificate holder discipline, or other specified charges.

This bill would delete that liability requirement and would require the council to be sued only in the county of its principal office.

The bill would make various conforming changes, *including with regard to the failure of an owner or operator of a massage business or establishment to comply with the provisions that apply to the practice of massage therapy.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4600 of the Business and Professions
2 Code is amended to read:

3 4600. As used in this chapter, the following terms shall have
4 the following meanings:

5 (a) ~~“Recognized “Approved school” or “recognized “approved~~
6 ~~massage school”~~ means a school ~~recognized approved~~ by the
7 council that meets minimum standards for training and curriculum
8 in massage and related subjects and that ~~is approved by~~ *meets* any
9 of the following *requirements*:

10 (1) ~~The~~ *Is approved by the* Bureau for Private Postsecondary
11 ~~and Vocational Education pursuant to former Section 94739 of~~
12 ~~the Education Code prior to July 1, 2007, and as of the date on~~
13 ~~which an applicant met the requirements of paragraph (2) of~~

1 subdivision (b) or subparagraph (A) of paragraph (2) of subdivision
2 (e) of Section 4601. *Education*.

3 (2) ~~The~~ *Is approved by the* Department of Consumer Affairs.

4 (3) ~~An~~ *Is an* institution accredited by the Accrediting
5 Commission for Senior Colleges and Universities or the
6 Accrediting Commission for Community and Junior Colleges of
7 the Western Association of Schools and Colleges and that is one
8 of the following:

9 (A) A public institution.

10 (B) An institution incorporated and lawfully operating as a
11 nonprofit public benefit corporation pursuant to Part 2
12 (commencing with Section 5110) of Division 2 of Title 1 of the
13 Corporations Code, and that is not managed by any entity for profit.

14 (C) A for-profit institution.

15 (D) An institution that does not meet all of the criteria in
16 subparagraph (B) that is incorporated and lawfully operating as a
17 nonprofit public benefit corporation pursuant to Part 2
18 (commencing with Section 5110) of Division 2 of Title 1 of the
19 Corporations Code, that has been in continuous operation since
20 April 15, 1997, and that is not managed by any entity for profit.

21 (4) ~~A~~ *Is a* college or university of the state higher education
22 system, as defined in Section 100850 of the Education Code.

23 (5) ~~A~~ *Is a* school of equal or greater training that is recognized
24 by the corresponding agency in another state or accredited by an
25 agency recognized by the United States Department of Education.

26 (b) “Compensation” means the payment, loan, advance,
27 donation, contribution, deposit, or gift of money or anything of
28 value.

29 (c) “Massage therapist,” “bodyworker,” “bodywork therapist,”
30 or “massage and bodywork therapist” means a person who is
31 certified by the California Massage Therapy Council under
32 subdivision (c) of Section 4601 and who administers massage for
33 compensation.

34 (d) “Massage practitioner,” “bodywork practitioner,” or
35 “massage and bodywork practitioner” means a person who is
36 certified by the California Massage Therapy Council under
37 subdivision (b) of Section 4601 and who administers massage for
38 compensation.

39 (e) “Council” means the California Massage Therapy Council
40 created pursuant to this chapter, which shall be a nonprofit

1 organization exempt from taxation under Section 501(c)(3) of Title
2 26 of the United States Code. The council may commence activities
3 as authorized by this section once it has submitted a request to the
4 Internal Revenue Service seeking this exemption. Whenever the
5 term “organization” is used in this chapter, it shall mean the
6 council, except where the context indicates otherwise.

7 (f) “Registered school” means a school ~~recognized~~ *approved*
8 by the council that meets minimum standards for training and
9 curriculum in massage and related subjects and that either ~~was~~
10 ~~recognized~~ *is approved* by the Bureau for Private Postsecondary
11 and Vocational Education pursuant to Section 94931 of the
12 Education Code prior to July 1, 2007, and as of the date on which
13 an applicant met the requirements of paragraph (2) of subdivision
14 (b) or subparagraph (A) of paragraph (2) of subdivision (c) of
15 Section 4601, or is recognized by *Education* or the Department of
16 Consumer Affairs, ~~by~~ *or is* an institution accredited by the senior
17 commission or the junior commission of the Western Association
18 of Schools and Colleges as defined in paragraph ~~(2)~~ (3) of
19 subdivision (a) of Section 4600, ~~by~~ *is* a college or university of
20 the state higher education system as defined in Section 100850 of
21 the Education Code, or ~~by~~ *is* a school of equal or greater training
22 that is approved by the corresponding agency in another state.

23 (g) For purposes of this chapter, the terms “massage” and
24 “bodywork” shall have the same meaning.

25 SEC. 2. Section 4600.5 of the Business and Professions Code
26 is amended to read:

27 4600.5. (a) The California Massage Therapy Council, as
28 defined in subdivision (e) of Section 4600, shall be created and
29 shall have the responsibilities and duties set forth in this chapter.
30 The council may take any reasonable actions to carry out the
31 responsibilities and duties set forth in this chapter, including, but
32 not limited to, hiring staff and entering into contracts.

33 (b) (1) The council shall be governed by a board of directors
34 made up of two representatives selected by each professional
35 society, association, or other entity, whose membership is
36 comprised of massage therapists and that chooses to participate in
37 the council. To qualify, a professional society, association, or other
38 entity shall have a dues-paying membership in California of at
39 least 1,000 individuals for the last three years, and shall have
40 bylaws that require its members to comply with a code of ethics.

1 The board of directors shall also include each of the following
2 persons:

3 (A) One member selected by each statewide association of
4 private postsecondary schools incorporated on or before January
5 1, 2010, whose member schools have together had at least 1,000
6 graduates in each of the previous three years from massage therapy
7 programs meeting the approval standards set forth in subdivision
8 (a) of Section 4600, except from those qualifying associations that
9 choose not to exercise this right of selection.

10 (B) One member selected by the League of California Cities,
11 unless that entity chooses not to exercise this right of selection.

12 (C) One member selected by the California State Association
13 of Counties, unless that entity chooses not to exercise this right of
14 selection.

15 (D) One member selected by the Director of Consumer Affairs,
16 unless that entity chooses not to exercise this right of selection.

17 (E) One member appointed by the Office of the Chancellor of
18 the California Community Colleges, unless that entity chooses not
19 to exercise this right of selection. The person appointed, if any,
20 shall not be part of any massage therapy certificate or degree
21 program.

22 The council's bylaws shall establish a process for appointing
23 other professional directors as determined by the board.

24 (2) The initial board of directors shall establish the council,
25 initiate the request for tax-exempt status from the Internal Revenue
26 Service, and solicit input from the massage community concerning
27 the operations of the council. The initial board of directors, in its
28 discretion, may immediately undertake to issue the certificates
29 authorized by this chapter after adopting the necessary bylaws or
30 other rules, or may establish by adoption of bylaws the permanent
31 governing structure prior to issuing certificates.

32 (c) The board of directors shall establish fees reasonably related
33 to the cost of providing services and carrying out its ongoing
34 responsibilities and duties. Initial and renewal fees shall be
35 established by the board of directors annually.

36 (d) The meetings of the council shall be subject to the rules of
37 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
38 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
39 the Government Code).

SEC. 3. Section 4601 of the Business and Professions Code is amended to read:

4601. (a) The council shall issue a certificate under this chapter to an applicant who satisfies the requirements of this chapter.

(b) (1) In order to obtain certification as a massage practitioner, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(A) The applicant is 18 years of age or older.

(B) The applicant has successfully completed, at a single approved school, curricula in massage and related subjects totaling a minimum of 250 hours that incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

(C) All fees required by the council have been paid.

(2) New certificates shall not be issued pursuant to this subdivision after December 31, 2015. Certificates issued pursuant to this section or subdivision (a) or (c) of Section 4604 on or before December 31, 2015, shall, after December 31, 2015, be renewed without any additional educational requirements, provided that the certificate holder continues to be qualified pursuant to this chapter.

(c) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant satisfies at least one of the following requirements:

(A) He or she has successfully completed the curricula in massage and related subjects totaling a minimum of 500 hours. Of this 500 hours, a minimum of 250 hours shall be from ~~recognized~~ *approved* schools. The remaining 250 hours required may be secured either from ~~recognized~~ *approved* or registered schools, or from continuing education providers ~~recognized~~ *approved* by, or registered with, the council or the Department of Consumer Affairs. After December 31, 2015, applicants may only satisfy the curricula in massage and related subjects from ~~recognized~~ *approved* schools.

1 (B) The applicant has passed a massage and bodywork
2 competency assessment examination that meets generally
3 recognized psychometric principles and standards, and that is
4 approved by the board. The successful completion of this
5 examination may have been accomplished before the date the
6 council is authorized by this chapter to begin issuing certificates.

7 (3) All fees required by the council have been paid.

8 (d) The council shall issue a certificate to an applicant who
9 meets the other qualifications of this chapter and holds a current
10 and valid registration, certification, or license from any other state
11 whose licensure requirements meet or exceed those defined within
12 this chapter. The council shall have discretion to give credit for
13 comparable academic work completed by an applicant in a program
14 outside of California.

15 (e) An applicant applying for a massage therapist certificate
16 shall file with the council a written application provided by the
17 council, showing to the satisfaction of the council that he or she
18 meets all of the requirements of this chapter.

19 (f) Any certification issued under this chapter shall be subject
20 to renewal every two years in a manner prescribed by the council,
21 and shall expire unless renewed in that manner. The council may
22 provide for the late renewal of a license.

23 (g) (1) The council shall have the responsibility to determine
24 that the school or schools from which an applicant has obtained
25 the education required by this chapter meet the requirements of
26 this chapter. If the council has any reason to question whether or
27 not the applicant received the education that is required by this
28 chapter from the school or schools that the applicant is claiming,
29 the council shall investigate the facts to determine that the applicant
30 received the required education prior to issuing a certificate.

31 (2) For purposes of paragraph (1) and any other provision of
32 this chapter for which the council is authorized to receive factual
33 information as a condition of taking any action, the council shall
34 have the authority to conduct oral interviews of the applicant and
35 others or to make any investigation deemed necessary to establish
36 that the information received is accurate and satisfies any criteria
37 established by this chapter.

38 ~~SEC. 4. Section 4601.2 of the Business and Professions Code~~
39 ~~is amended to read:~~

1 ~~4601.2. No certificates shall be issued by the council pursuant~~
2 ~~to this chapter prior to September 1, 2009.~~

3 ~~SEC. 5.~~

4 *SEC. 4.* Section 4601.3 of the Business and Professions Code
5 is amended to read:

6 4601.3. (a) Prior to issuing a certificate to the applicant or
7 designating a custodian of records, the council shall require the
8 applicant or the custodian of records candidate to submit fingerprint
9 images in a form consistent with the requirements of this section.
10 The council shall submit the fingerprint images and related
11 information to the Department of Justice for the purpose of
12 obtaining information as to the existence and nature of a record of
13 state and federal level convictions and of state and federal level
14 arrests for which the Department of Justice establishes that the
15 applicant or candidate was released on bail or on his or her own
16 recognizance pending trial. Requests for federal level criminal
17 offender record information received by the Department of Justice
18 pursuant to this section shall be forwarded to the Federal Bureau
19 of Investigation by the Department of Justice. The Department of
20 Justice shall review the information returned from the Federal
21 Bureau of Investigation, and shall compile and disseminate a fitness
22 determination regarding the applicant or candidate to the council.

23 (b) The Department of Justice shall provide information to the
24 council pursuant to subdivision (p) of Section 11105 of the Penal
25 Code.

26 (c) The Department of Justice and the council shall charge a fee
27 sufficient to cover the cost of processing the request for state and
28 federal level criminal offender record information.

29 (d) The council shall request subsequent arrest notification
30 service from the Department of Justice, as provided under Section
31 11105.2 of the Penal Code, for all applicants for licensure or
32 custodian of records candidates for whom fingerprint images and
33 related information are submitted to conduct a search for state and
34 federal level criminal offender record information.

35 (e) This section shall become operative September 1, 2009.

36 ~~SEC. 6.~~

37 *SEC. 5.* Section 4601.4 of the Business and Professions Code
38 is amended to read:

1 4601.4. Council directors, employees, or volunteer individuals
2 may undergo the background investigation process delineated in
3 Section 4601.3.

4 ~~SEC. 7.~~

5 *SEC. 6.* Section 4602 of the Business and Professions Code is
6 amended to read:

7 4602. (a) The council may discipline a certificate holder by
8 any, or a combination, of the following methods:

9 (1) Placing the certificate holder on probation.

10 (2) Suspending the certificate and the rights conferred by this
11 chapter on a certificate holder for a period not to exceed one year.

12 (3) Revoking the certificate.

13 (4) Suspending or staying the disciplinary order, or portions of
14 it, with or without conditions.

15 (5) Taking other action as the council, as authorized by this
16 chapter or its bylaws, deems proper.

17 (b) The council may issue an initial certificate on probation,
18 with specific terms and conditions, to any applicant.

19 (c) (1) Notwithstanding any other provision of law, if the
20 council receives notice that a certificate holder has been arrested
21 and charges have been filed by the appropriate prosecuting agency
22 against the certificate holder alleging a violation of subdivision
23 (b) of Section 647 of the Penal Code or any other offense described
24 in subdivision (h) of Section 4603, the council shall take all of the
25 following actions:

26 (A) Immediately suspend, on an interim basis, the certificate of
27 that certificate holder.

28 (B) Notify the certificate holder within 10 days at the address
29 last filed with the council that the certificate has been suspended,
30 and the reason for the suspension.

31 (C) Notify any business within 10 days that the council has in
32 its records as employing the certificate holder that the certificate
33 has been suspended.

34 (2) Upon notice to the council that the charges described in
35 paragraph (1) have resulted in a conviction, the suspended
36 certificate shall become subject to permanent revocation. The
37 council shall provide notice to the certificate holder within 10 days
38 that it has evidence of a valid record of conviction and that the
39 certificate will be revoked unless the certificate holder provides

1 evidence within 15 days that the conviction is either invalid or that
2 the information is otherwise erroneous.

3 (3) Upon notice that the charges have resulted in an acquittal,
4 or have otherwise been dismissed prior to conviction, the certificate
5 shall be immediately reinstated and the certificate holder and any
6 business that received notice pursuant to subparagraph (C) of
7 paragraph (1) shall be notified of the reinstatement within 10 days.

8 ~~SEC. 8.~~

9 *SEC. 7.* Section 4602.5 of the Business and Professions Code
10 is amended to read:

11 4602.5. (a) Upon the request of any law enforcement agency
12 or any other representative of a local government agency with
13 responsibility for regulating, or administering a local ordinance
14 relating to, massage or massage businesses, the council shall
15 provide information concerning a certificate holder, including, but
16 not limited to, the current status of the certificate, any history of
17 disciplinary actions taken against the certificate holder, the home
18 and work addresses of the certificate holder, and any other
19 information in the council's possession that is necessary to verify
20 facts relevant to administering the local ordinance.

21 (b) The council shall accept information provided by any law
22 enforcement agency or any other representative of a local
23 government agency with responsibility for regulating, or
24 administering a local ordinance relating to, massage or massage
25 businesses. The council shall have the responsibility to review any
26 information received and to take any actions authorized by this
27 chapter that are warranted by that information.

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 4603 of the Business and Professions Code is
30 amended to read:

31 4603. It is a violation of this chapter for a certificate holder to
32 commit, and the council may deny an application for a certificate
33 or discipline a certificate holder for, any of the following:

34 (a) Unprofessional conduct, including, but not limited to, denial
35 of licensure, revocation, suspension, restriction, or any other
36 disciplinary action against a certificate holder by another state or
37 territory of the United States, by any other government agency, or
38 by another California health care professional licensing board. A
39 certified copy of the decision, order, or judgment shall be
40 conclusive evidence of these actions.

1 (b) Procuring a certificate by fraud, misrepresentation, or
2 mistake.

3 (c) Violating or attempting to violate, directly or indirectly, or
4 assisting in or abetting the violation of, or conspiring to violate,
5 any provision or term of this chapter or any rule or bylaw adopted
6 by the council.

7 (d) Conviction of any felony, or conviction of a misdemeanor
8 that is substantially related to the qualifications or duties of a
9 certificate holder, in which event the record of the conviction shall
10 be conclusive evidence of the crime.

11 (e) Impersonating an applicant or acting as a proxy for an
12 applicant in any examination referred to under this chapter for the
13 issuance of a certificate.

14 (f) Impersonating a certified practitioner or therapist, or
15 permitting or allowing an uncertified person to use a certificate.

16 (g) Committing any fraudulent, dishonest, or corrupt act that is
17 substantially related to the qualifications or duties of a certificate
18 holder.

19 (h) Committing any act punishable as a sexually related crime.

20 ~~SEC. 10.~~

21 *SEC. 9.* Section 4603.1 of the Business and Professions Code
22 is amended to read:

23 4603.1. (a) No certificate holder or certificate applicant may
24 be disciplined or denied a certificate pursuant to Section 4603
25 except according to procedures satisfying the requirements of this
26 section. A denial or discipline not in accord with this section or
27 subdivision (c) of Section 4602 shall be void and without effect.

28 (b) Any certificate applicant denial or certificate holder
29 discipline shall be done in good faith and in a fair and reasonable
30 manner. Any procedure that conforms to the requirements of
31 subdivision (c) is fair and reasonable, but a court may also find
32 other procedures to be fair and reasonable when the full
33 circumstances of the certificate denial or certificate holder
34 discipline are considered.

35 (c) A procedure is fair and reasonable when the procedures in
36 subdivision (c) of Section 4602 are followed, or if all of the
37 following apply:

38 (1) The provisions of the procedure have been set forth in the
39 articles or bylaws, or copies of those provisions are sent annually
40 to all the members as required by the articles or bylaws.

(2) It provides the giving of 15 days prior notice of the certificate denial or certificate holder discipline and the reasons therefor.

(3) It provides an opportunity for the certificate applicant or certificate holder to be heard, orally or in writing, not less than five days before the effective date of the certificate denial or certificate holder discipline by a person or body authorized to decide that the proposed certificate denial or certificate holder discipline not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or certified mail sent to the last address of the certificate applicant or certificate holder shown on the council's records.

(e) Any action challenging a certificate denial or certificate holder discipline, including any claim alleging defective notice, shall be commenced within one year after the date of the certificate denial or certificate holder discipline. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.

(f) This section governs only the procedures for certificate denial or certificate holder discipline and not the substantive grounds therefor. A certificate denial or certificate holder discipline based upon substantive grounds that violates contractual or other rights of the member or is otherwise unlawful is not made valid by compliance with this section.

(g) The council shall be sued only in the county of its principal office.

~~SEC. 11.~~

SEC. 10. Section 4603.5 of the Business and Professions Code is amended to read:

4603.5. It shall be the responsibility of any certificate holder to notify the council of his or her home address, as well as the address of any business establishment where he or she regularly works as a massage therapist or massage practitioner, whether as an employee or as an independent contractor. A certificate holder shall notify the council within 30 days of changing either his or her home address or the address of the business establishment where he or she regularly works as a massage therapist or massage practitioner.

1 ~~SEC. 12.~~

2 *SEC. 11.* Section 4603.7 is added to the Business and
3 Professions Code, to read:

4 4603.7. A certificate holder shall include the name under which
5 he or she is certified and his or her certificate number in any and
6 all advertising and shall display his or her certificate at his or her
7 place of business.

8 ~~SEC. 13.~~

9 *SEC. 12.* Section 4604 of the Business and Professions Code
10 is amended to read:

11 4604. (a) Notwithstanding Section 4601, the council may grant
12 a massage practitioner certificate to any person who applies on or
13 before January 1, 2012, with one of the following:

14 (1) A current valid massage permit or license from a California
15 city, county, or city and county and documentation evidencing that
16 the person has completed at least a 100-hour course in massage at
17 ~~a recognized~~ *an approved* or registered school, or out-of-state
18 school recognized by the council as providing comparable
19 education, has been practicing for at least three years, and has
20 provided at least 1,000 hours of massage to members of the public
21 for compensation.

22 (2) Documentation evidencing that the person has completed
23 at least a 100-hour course in massage at ~~a recognized~~ *an approved*
24 or registered school, or out-of-state school recognized by the
25 council as providing comparable education, has been practicing
26 for at least three years, and has provided at least 1,750 hours of
27 massage to members of the public for compensation. For purposes
28 of this subdivision, evidence of practice shall include either of the
29 following:

30 (A) A W-2 form or employer's affidavit containing the dates
31 of the applicant's employment.

32 (B) Tax returns indicating self-employment as a massage
33 practitioner or massage therapist or any other title that may
34 demonstrate experience in the field of massage.

35 (3) Documentation evidencing that the person holds a current
36 valid certificate of authorization as an instructor at ~~a recognized~~
37 *an approved* massage school, or holds the position of a massage
38 instructor at a school accredited by an agency recognized by the
39 United States Department of Education, or colleges and universities

1 of the state higher education system, as defined in Section 100850
2 of the Education Code.

3 (b) (1) After reviewing the information submitted under
4 subdivision (a), the council may require additional information
5 necessary to enable it to determine whether to issue a certificate.

6 (2) If an applicant under paragraph (1) of subdivision (a) or
7 paragraph (1) of subdivision (c) has not complied with Section
8 4601.3, or its equivalent, when obtaining a license or permit from
9 the city, county, or city and county, the council shall require the
10 applicant to comply with Section 4601.3 prior to issuing a
11 certificate pursuant to this section.

12 (c) (1) A person applying for a massage practitioner certificate
13 on or before January 1, 2012, who meets the educational
14 requirements of either paragraph (1) or (2) of subdivision (a), but
15 who has not completed the required number of practice hours prior
16 to submitting an application pursuant to this section, may apply
17 for a conditional certificate.

18 (2) An applicant for a conditional certificate shall, within five
19 years of being issued the conditional certificate, be required to
20 complete at least 30 hours of additional education per year from
21 schools or courses described in paragraph (5) until he or she has
22 completed a total of at least 250 hours of education, which may
23 include massage education hours previously completed in a
24 massage course described in either paragraph (1) or (2) of
25 subdivision (a).

26 (3) Upon successful completion of the requirements of this
27 subdivision, the council shall issue a certificate to the person that
28 is not conditional.

29 (4) A conditional certificate issued to any person pursuant to
30 this subdivision shall immediately be nullified, without need for
31 further action by the council, if the time period specified in
32 paragraph (2) expires without proof of completion of the
33 requirements having been filed with the council.

34 (5) Any additional education required by this section may be
35 completed through courses provided by any of the following:

36 (A) ~~A recognized~~ *An approved* school.

37 (B) A registered school.

38 (C) A provider approved by, or registered with, the council or
39 the Department of Consumer Affairs.

1 (D) A provider that establishes to the satisfaction of the council
2 that its course or courses are appropriate educational programs for
3 this purpose.

4 (d) Nothing in this section shall preclude the council from
5 exercising any power or authority conferred by this chapter with
6 respect to a conditional certificate holder.

7 ~~SEC. 14.~~

8 *SEC. 13.* Section 4612 of the Business and Professions Code
9 is amended to read:

10 4612. (a) (1) The holder of a certificate issued pursuant to
11 this chapter shall have the right to practice massage, consistent
12 with this chapter and the qualifications established by his or her
13 certification, in any city, county, or city and county in this state
14 and shall not be required to obtain any other license, permit, or
15 other authorization, except as provided in this section, to engage
16 in that practice.

17 (2) Notwithstanding any other provision of law, a city, county,
18 or city and county shall not enact an ordinance that requires a
19 license, permit, or other authorization to practice massage by an
20 individual who is certified pursuant to this chapter and who is
21 practicing consistent with the qualifications established by his or
22 her certification. No provision of any ordinance enacted by a city,
23 county, or city and county that is in effect before the effective date
24 of this chapter, and that requires a license, permit, or other
25 authorization to practice massage, may be enforced against an
26 individual who is certified pursuant to this chapter.

27 (3) Except as provided in subdivision (b), nothing in this section
28 shall be interpreted to prevent a city, county, or city and county
29 from adopting or enforcing any local ordinance governing zoning,
30 business licensing, and reasonable health and safety requirements
31 for massage establishments or businesses. Subdivision (b) shall
32 not apply to any massage establishment or business that employs
33 or uses persons to provide massage services who are not certified
34 pursuant to this chapter.

35 (b) (1) This subdivision shall apply only to massage
36 establishments or businesses that are sole proprietorships, where
37 the sole proprietor is certified pursuant to this chapter, and to
38 massage establishments or businesses that employ or use only
39 persons certified pursuant to this chapter to provide massage
40 services. For purposes of this subdivision, a sole proprietorship is

1 a business where the owner is the only person employed by that
2 business to provide massage services.

3 (2) (A) Any massage establishment or business described in
4 paragraph (1) shall maintain on its premises evidence for review
5 by local authorities that demonstrates that all persons providing
6 massage services are certified.

7 (B) Nothing in this section shall preclude a city, county, or city
8 and county from including in a local ordinance a provision that
9 requires a business described in paragraph (1) to file copies or
10 provide other evidence of the certificates held by the persons who
11 are providing massage services at the business.

12 (3) A city, county, or city and county may charge a massage
13 business or establishment a business licensing fee sufficient to
14 cover the costs of the business licensing activities established by
15 a local ordinance described in this section.

16 (4) Nothing in this section shall prohibit a city, county, or city
17 and county from adopting land use and zoning requirements
18 applicable to massage establishments or businesses, provided that
19 these requirements shall be no different than the requirements that
20 are uniformly applied to other professional or personal services
21 businesses.

22 (5) Local building code or physical facility requirements
23 applicable to massage establishments or businesses shall not require
24 additional restroom, shower, or other facilities that are not
25 uniformly applicable to other professional or personal service
26 businesses, nor shall building or facility requirements be adopted
27 that (A) require unlocked doors when there is no staff available to
28 ensure security for clients and massage staff who are behind closed
29 doors, or (B) require windows that provide a view into massage
30 rooms that interfere with the privacy of clients of the massage
31 business.

32 (6) A city, county, or city and county may adopt reasonable
33 health and safety requirements with respect to massage
34 establishments or businesses, including, but not limited to,
35 requirements for cleanliness of massage rooms, towels and linens,
36 and reasonable attire and personal hygiene requirements for persons
37 providing massage services, provided that nothing in this paragraph
38 shall be interpreted to authorize adoption of local ordinances that
39 impose additional qualifications, such as medical examinations,

1 background checks, or other criteria, upon any person certified
2 pursuant to this chapter.

3 (7) Nothing in this section shall preclude a city, county, or city
4 and county from doing any of the following:

5 (A) Requiring an applicant for a business license to operate a
6 massage business or establishment to fill out an application that
7 requests the applicant to provide relevant information.

8 (B) Making reasonable investigations into the information so
9 provided.

10 (C) Denying or restricting a business license if the applicant
11 has provided materially false information.

12 (c) An owner or operator of a massage business or establishment
13 subject to subdivision (b) shall be responsible for the conduct of
14 all employees or independent contractors working on the premises
15 of the business. Failure to comply with this ~~provision~~ chapter may
16 result in revocation of the owner's or operator's certificate in
17 accordance with Section 4603. Nothing in this section shall
18 preclude a local ordinance from authorizing suspension, revocation,
19 or other restriction of a license or permit issued to a massage
20 establishment or business if violations of this chapter, or of the
21 local ordinance, occur on the business premises.

22 (d) Nothing in this section shall preclude a city, county, or city
23 and county from adopting a local ordinance that is applicable to
24 massage businesses or establishments described in paragraph (1)
25 of subdivision (b) and that does either of the following:

26 (1) Provides that duly authorized officials of the city, county,
27 or city and county have the right to conduct reasonable inspections,
28 during regular business hours, to ensure compliance with this
29 chapter, the local ordinance, or other applicable fire and health
30 and safety requirements.

31 (2) Requires an owner or operator to notify the city, county, or
32 city and county of any intention to rename, change management,
33 or convey the business to another person.

34 ~~SEC. 15.~~

35 *SEC. 14.* Section 4615 of the Business and Professions Code
36 is amended to read:

37 4615. This chapter shall be subject to the review required by
38 Article 7.5 (commencing with Section 9147.7) of Chapter 1.5 of
39 Part 1 of Division 2 of the Government Code.

1 ~~SEC. 16.~~

2 *SEC. 15.* Section 4616 is added to the Business and Professions
3 Code, to read:

4 4616. This chapter shall be liberally construed to effectuate its
5 purposes. If any provision of this chapter or the application thereof
6 to any person or circumstance is held to be invalid, the invalidity
7 shall not affect other provisions or applications of the chapter that
8 can be given effect without the invalid provision or application,
9 and to this end the provisions of this chapter are severable.

O